Winslow J.: The petitioner, who is a Singapore citizen with a Singapore domicile, asks for dissolution of his marriage with the respondent on the ground of her desertion since December, 1960, being more than three years from the date of the presentation of his petition.

The divorce was uncontested and the petitioner proved desertion.

The only question which arises is whether his marriage to the respondent, which took place in Ipoh according to Hindu customary rites in May, 1957, is a marriage which this court has jurisdiction to dissolve.

Section 82(1) of the Women's Charter, 1961 (Ordinance No. 18 of 1961) provides that, apart from the fact that the parties must have a Singapore domicile, the marriage must either have been registered or be deemed to be registered under the provisions of the Charter if it is not a monogamous marriage.

A marriage is deemed to be registered under secion 166 of the Charter if it was solemnized, under any law, religion, custom or usage, prior to 2nd March, 1961, and is valid under such law, religion, custom or usage.

This marriage is accordingly deemed to be registered under the provisions of the Charter.

A difficulty, however, arose because the Annual Supplement to the Laws of Singapore for the year 1961 issued in 1964 has altered section 166 as originally enacted, by limiting the application of this section to such marriages as are solemnized *in Singapore* before the *coming into operation* of the Charter viz., 15th September, 1961.

It was conceded by counsel on behalf of the State Advocate-General that the alteration effected by the words in italics above is not authorised by the powers conferred on the State Advocate-General as Commissioner by section 4 of the Revised Edition of the Laws (Annual Supplements) Ordinance, 1956 (No. 10 of 1956), but it was sought, at one stage, to justify the conclusiveness of the 1961 Annual Supplement by reference to section 8 of the Ordinance of 1956 above which provides —

"8. (1) The Yang di-Pertuan Negara may, by notification in the *Gazette*, approve of each Annual Supplement upon the issue thereof and order that it shall come into force from such date as he thinks fit. From the date named in such notification the Annual Supplement shall except to the extent, if any, to which it shall be superseded by the next or any subsequent Annual Supplement, be deemed to be and shall be without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper Statute Book of the State of Singapore in respect of the Ordinances enacted between the 1st January and the 31st December inclusive of the year immediately preceding the date of issue and in respect of the subsidiary legislation included therein."

Mr. P. Coomaraswamy, counsel for the petitioner, argued that the case of the *Reference by the Registrar of Titles, Selangor, under section 238 of the Land Code, Cap. 138 (Selangor Civil Application No. 33 of 1936)*[1] was no authority for holding that the Annual Supplement was the sole and proper Statute Book of the State and tried to persuade me to hold that it was wrongly decided.

It is not necessary for me to say whether it was rightly or wrongly decided. For the purposes of this petition, it is sufficient to note, as I pointed out to Mr. Ho Thian Cheh, the State Advocate-General's representative, that section 8(1) in effect, provides for the "sanctity" of an Annual Supplement only in respect of Ordinances enacted in the year immediately preceding the date of its issue. The 1961 Annual Supplement was issued only in 1964 and reliance cannot, therefore, be placed on section 8 for the contention that it shall be "without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper Statute Book of the State . . . ".

This was conceded by Mr. Ho and recourse can, therefore, be had only to the Ordinance as originally enacted which does not, in section 166, contain the words "in Singapore". It is true that the marginal note does, but it was submitted by Mr. Ho that it did not control the words of the section and that I could, therefore, ignore it, as in fact had been done by the courts prior to the issue of the 1961 Annual Supplement.

I, therefore, pronounced a decree *nisi* to be made absolute after the expiration of three months in the absence of an appeal or intervention.

Order accordingly.

Solicitors: *Braddell Bros.; Drew & Napier.*

PONNUSAMI v. RATNAM & THE GOVERNMENT OF MALAYSIA

[O.C.J. (Ong Hock Sim J.) September 10, 1965]

[Penang — Summons-in-Chambers No. 246 of 1965 in Civil Suit No. 78 of 1965]

Practice and Procedure — Parties — Substitution of defendant — Public Authorities Protection Ordinance, 1948 — R.S.C. 1957, O. 16 r. 12.

Government Suits — Plaintiff's right of action — Whether barred by Public Authorities Protection Ordinance, 1948, s. 2.

The plaintiff sued the driver of a government vehicle and the Penang State Government his employer for damages arising out of an accident. After the expiration of one year Hepworth J. allowed an application under R.S.C. O. 16 r. 12 by the plaintiff to substitute the Government of Malaysia in place of the Penang State Government as second defendant. The second defendant then applied to set aside the writ on the ground that the plaintiff's right of action was barred by section 2 of

the Public Authorities Protection Ordinance, 1948.

Held: the court cannot read into the section that no public authority can be sued for the acts of its officers unless action was also instituted simultaneously against the authority within 12 months next after the act (of its officer) complained of.

ADJOURNED SUMMONS.

Goh Eng Kee for the plaintiff.

Au Ah Wah (Senior Federal Council) for the 2nd defendant.

Ong Hock Sim J.: This is an application (1) to set aside the writ of summons on the ground that the plaintiff's right of action is barred by section 2 of the Public Authorities Protection Ordinance, 1948, and (2) for costs.

With respect to learned Senior Federal Counsel for the 2nd defendant/applicant, this application is misconceived and, having regard to the whole conduct of this case, also frivolous. Having read the affidavits and looked into the previous preceedings, I adjourned this summons into open court for argument as the question of construction of section 2 of the Public Authorities Protection Ordinance and the effect of rule 11 of Order 16 of the Rules of the Supreme Court, 1957, would need to be considered. In the main, I was also concerned why it took all the time from September, 1964, to the end of March, 1965, for the State Engineer, Penang, and the State Legal Adviser to advise the solicitors for the plaintiff that the liability did not lie with the State Government as the particular vehicle was Federal Government property. It may be that the solicitors could have obtained this information from the registrar and inspector of motor vehicles, but that in no way excuses the inordinate delay in answering a simple question as to ownership of the vehicle involved and the party consequently liable.

The plaintiff in this case suffered injuries as a result of an accident on the 2nd April, 1964, in which a lorry No. BH 1138 driven by the 1st defendant was involved. What followed is set out in the affidavit of the plaintiff sworn to on the 7th day of September, 1965. After protracted inquiries which failed to elicit any information concerning the ownership of the said lorry and with time running out, the plaintiff filed this action on the 26th March, 1965, against the 1st defendant as the driver. Having conducted all correspondence, save the first, with the Legal Adviser, Penang, he naturally joined the Government of the State of Penang as the 2nd defendant, as being the owner of the lorry or the employer of the 1st defendant. It was then that the plaintiff was informed that the proper defendant was the Government of Malaysia and the plaintiff took steps immediately to rectify the error by way of summons-in-chambers dated the 19th April, 1965, under rule 12 of Order 16 of the Rules of the Supreme Court, 1957, by substituting the Government of Malaysia in place of the Government of the State of Penang. At the hearing of this summons on the 30th day of April, 1965, before Mr. Justice Hepworth, Senior Federal Counsel appeared and apparently made no objection to the making of the order or consented thereto, subject to the payment by the plaintiff of $25 by way of costs. If the grounds urged in support of his application have any substance, it seemed to me not a little odd that a cross-application should not have been filed, objecting to the granting of the amendment on the ground that the 2nd defendant had a vested right to limit. This conduct had predisposed me, were I to accede to this application, to refuse to award any costs of this application to the applicant. In any event, following this order, the course open to Senior Federal Counsel — if it can be contended that he is not estopped by his conduct — would be to appeal against the order allowing the substitution. On this ground alone the present application must fail.

However I would like to make some observations on the applicant's contention that by reason of section 2 of the Public Authorities Protection Ordinance, 1948, the action is statute-barred as against the 2nd defendant and the writ of summons and all subsequent proceedings should now be set aside so far as the 2nd defendant is concerned. Section 2 of the Public Authorities Protection Ordinance reads:—

> "Where, after the coming into force of this Ordinance, any suit, action, prosecution or other proceeding is commenced in the Federation *against any person* for any act done in pursuance or execution or intended execution of any written law or of any public duty or authority or in respect of any alleged neglect or default in the execution of any such written law, duty or authority the following provisions shall have effect —
>
> (a) the suit, action, prosecution or proceeding shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of...."

This writ was issued on the 26th day of March, 1965, and accordingly section 2 of the Ordinance can have no application. I am asked by the applicant however to read into this section that no public authority can be sued for the acts of its officers unless action was also instituted simultaneously against the authority within 12 months next after the act (of its officer) complained of. No action lies directly against the public authority, whose liability is vicarious by reason of the act occurring in the course of employment or within the scope of authority of the officer. As the action continues against the officer having been filed within the prescribed time, I am somewhat puzzled as to the purpose of this application. Is the Government going to be heard to say, in the event that the plaintiff obtains judgment against the 1st defendant, "You have not joined me as a party within the

12 months and therefore you can only hold a personal judgment against the 1st defendant. I am not bound to pay by reason of section 2 of the Public Authorities Protection Ordinance"? Neither common sense nor justice can admit such a situation as it is clear in law that the employer is liable to a third party for tortious acts of its officers or servants in the course of employment, and, in my view, rule 11 of Order 16 applies, as there is no question but that the 2nd defendant is a party who ought to have been joined to enable the court effectually and completely to adjudicate upon and to settle all the questions involving in the cause.

The application is accordingly dismissed with costs.

Application dismissed.

Solicitors: *Goh & Lim.*

VINCENT KOH & ANOR. v. PUBLIC PROSECUTOR

[A.Cr.J. (Ambrose J.) September 13, 1965]

[Singapore — Magistrate's Appeal No. 24 of 1965]

Bribery and Corruption — Illegal gratification as inducement to show favour in relation to principal's affairs — Favour received in refraining to take action in respect of offence — Offence not proved — Meaning of "principal" — Prevention of Corruption Ordinance, 1960, ss. 2, 6 & 9.

Constitutional Law — "Government" — Meaning of — Constitution of Singapore of 1963 — Malaysia Act, 1963.

This was an appeal against the conviction of the first and second appellants under section 6(a) of the Prevention of Corruption Ordinance. It was alleged that the first appellant who was a police constable obtained $100 as an inducement for showing favour in relation to his principal's affairs by refusing to take police action against one *C* who was riding a motor cycle for an offence against the Motor Vehicles (Third Party Risks and Compensation) Ordinance, 1960. However the prosecution proved that at the material time there was an insurance policy in force covering the use of the motor cycle.

It was argued on behalf of the first appellant that (a) as there was in fact no offence to report the first appellant was not acting in relation to the affairs of his principal by representing that *C* committed an offence against the law; (b) as the first appellant was at all material times employed by the Government of Malaysia he was not liable under the Prevention of Corruption Ordinance, 1960 as the word "Government" in that Ordinance means the Government of Singapore.

As regards the second appellant the learned district judge said that on the evidence he preferred to believe the prosecution and accordingly found him guilty.

Held: (1) section 9(1) of the Prevention of Corruption Ordinance, 1960, provides that where in proceedings for an offence under section 6(a) it is proved that an agent had corruptly obtained any gratification having reason to believe or suspect that it was offered as an inducement for showing any favour to any person in relation to his principal's affairs, he will be guilty notwithstanding that such favour was not in relation to his principal's affairs; he shall be guilty notwithstanding that such favour was not in relation to his principal's affairs;

(2) the Prevention of Corruption Ordinance, 1960, should be construed, after Malaysia Day, with such modifications and adaptations as may be necessary to bring it into conformity with the Constitution of the State of Singapore and the Malaysia Act and therefore the word "Government" must be construed to mean not only the Government of Singapore but also the Government of Malaysia and the Prevention of Corruption Ordinance applied to the first appellant;

(3) the learned district judge was wrong in deciding the case against the second appellant because although the district judge believed the prosecution and did not believe the second appellant he should have considered the further question whether, even if he did not believe the second appellant, his evidence raised a reasonable doubt as to his guilt.

Case referred to:—

(1) *Hiralal Badlo* v. *R.* [1950] M.L.J. 96.

CRIMINAL APPEAL.

Dato' David Marshall for the first appellant.

M. N. Samy for the second appellant.

Dalip Singh (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Ambrose J.: In this case the first appellant was charged in the First Criminal District Court under section 6(a) of the Prevention of Corruption Ordinance, 1960, with corruptly obtaining for himself a gratification as an inducement to show favour in relation to his principal's affairs. He was alleged to have committed the offence on the 23rd May, 1964, at about 5.40 p.m. at No. 327-G Tampines Road 7½ milestone, Singapore. The charge alleged that he was a person serving under the Government as a police constable in the Royal Malaysia Police Force; that he being such a person corruptly obtained for himself from one Cha Ah Kaw-a gratification of $100 as an inducement to show favour to the said Cha Ah Kaw, in relation to his principal's affairs; and that favour was to be shown by refraining from taking police action against the said Cha Ah Kaw for an alleged offence against certain provisions of the Traffic Ordinance. The first appellant was convicted and sentenced to 6 months' imprisonment.

The second appellant was charged in the same case under section 6(a) of the same Ordinance with corruptly attempting to obtain for the first appellant a gratification as an inducement to show favour in relation to his principal's affairs. He was alleged to have committed the offence on the same day at about 5.30 p.m. at the same place. The second appellant was convicted and sentenced to 2 months' imprisonment.

The first submission of counsel for the first appellant proceeds as follows. According to the evidence of the prosecution, on the 22nd May,